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REPORT
101-272

DRUG AND ALCOHOL DEPENDENT OFFENDERS TREATMENT ACT OF 1989

OCTOBER 6, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. BROOKS, from the Committee on Judiciary, submitted the following

REPORT

[To accompany H.R. 3007]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3007) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

This bill reauthorizes appropriations for the Contract Services for Drug Dependent Federal Offenders Act of 1978 (Public Law 95-537). That Act authorizes the Administrative Office of the United States Courts to provide drug and alcohol testing and treatment for Federal offenders on probation, parole or supervised release. The undisputed link between drug abuse and crime underscores the need for maintenance of a highly structured program to control offender drug abuse and thereby reduce recidivism. This federal regimen of testing and treatment, popularly known as the Drug Aftercare Program, has proven to be a cost effective, well managed program. H.R. 3007 amends Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 to authorize an appropriation not to exceed $30 million for fiscal year 1990, $40 million for fiscal year 1991, and $45 million for fiscal year 1992.

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Background of Contract Services for Drug Dependent Federal Offenders

Contract services for drug dependent federal offenders after their release to the community either upon parole or after conviction was first authorized in 1966 by the Narcotic Addict Rehabilitation Act (Public Law 89–793). In 1972, aftercare was extended to all federal offenders with drug dependence problems by Public Law 92–293. This program was contracted for by the Bureau of Prisons for the Attorney General. Supervision of the persons under the program, however, was maintained by United States probation officers reporting to federal judges. System-wide administration was provided by the Administrative Office of the United States Courts.

In 1978, the Contract Services for Drug Dependent Federal Offenders Act consolidated the authority for the supervisory care of offenders treated under the Act with the authority to enter into the contracts to provide for the treatment (Public Law 95–537).

The Drug and Alcohol Dependent Offenders Treatment Act of 1986 (Section 1861 of the Anti-Drug Abuse Act of 1986 (18 U.S.C. 3672)) then gave the Director of the Administrative Office the added authority to contract for treatment services for alcohol dependent federal offenders. With the addition of alcohol abuse, the aftercare program became a multi-dimensional substance abuse treatment and urine surveillance program, designated as the Federal Substance Abuse Treatment Program.

The Anti-Drug Abuse Act of 1988 set authorization limits for the program at $24 million for fiscal year 1988 and $26 million for fiscal year 1989.

Need for a Federal Substance Abuse Program

The epidemic growth of substance abuse is continuing with little or no relief. The caseloads of the federal courts have been increasing significantly for the last several years. The Administrative Office reports that total case filings in the United States district courts have risen 42 percent during the 1980's, while criminal case filings have risen by 56 percent. During that period drug related criminal cases have increased by 229 percent. Drug related offenses now account for about 24 percent of the criminal case filings of the district courts and 44 percent of all criminal trials.

Of the 77,000 persons currently under supervision of the Federal Probation System, over 16,000 (21 percent) have been identified as substance abusing offenders who are currently undergoing urine surveillance or treatment. As a result of the increased prosecution of drug related offenses, and a concerted effort by the Federal Judicial Center to train probation officers in the identification of drug abusers, the number of drug dependent offenders in treatment rose from 4,784 on June 30, 1980, to 12,806 on March 31, 1989, an increase of 168 percent. The number of alcohol abusing offenders in treatment totaled 3,441. The number of persons under supervision is conservatively forecast to increase to 83,000 in fiscal year 1990 and 87,000 by fiscal year 1991. Without changing the current substance abuse identification process used by federal probation and pretrial services staff, and not accounting for increased prosecution activity, the number of persons in substance abuse treatment is ex-

pected to increase to 21,000 in fiscal year 1990 and 24,400 in fiscal year 1991.

Research studies have shown that the extent of criminality is directly affected by the person's addiction status. A 1983 study of 354 heroin addicts in Baltimore, MD, showed that during a nine year period those addicts averaged 2,000 crime days per addict. When using drugs, the crime rate for this group was four to six times higher than when the group was not using drugs. When not addicted, this group committed 84 percent fewer crimes.

In a post-arrest study in several major cities, urine screening of local arrestees revealed that 70 percent had tested positive for at least one drug. Data on individuals interviewed as part of the pretrial services program show that in 1988 over 39 percent of all criminal defendants appearing in federal court admitted to current or recent drug abuse problems. Preliminary results of an onsite testing project in eight Federal district courts show a 35 percent rate of drug use.[1]

Clearly, the extent of federal offenders' involvement with controlled substances is staggering and continuing to increase. The link between crime and drugs makes continuance of the aftercare program essential.

Treatment Program for Drug Dependent Federal Offenders

The basic goals of the Substance Abuse Treatment Program are the identification of substance abusing federal offenders and the provision of a treatment alternative for these offenders. Through close supervision of offenders and quick intervention in response to drug and alcohol abuse, the Substance Abuse Treatment Program is a useful tool for the probation officer to use to protect the community. The program is also an effective and economical sentencing alternative for the courts. With the availability of specialized services and the additional supervision and urine surveillance provided by the program, courts can consider restricted release in the community as opposed to more costly incarceration alternatives.

An essential component of the program is that every person being tested for drug dependency under the program is closely monitored by urine surveillance. Urinalysis is an aid to treatment that enables the officer to determine whether a person under supervision has refrained from, continued or returned to the use of controlled substances. A three-phase urine collection and treatment system has been established for all drug dependent persons under supervision. The phases include scheduled and unscheduled urine collections to prevent a person from timing the use of controlled substances to avoid detection. An officer will place an offender in the phase that will result in effective treatment, deterrence, and control. Offenders move from one phase to another depending on their record of drug-free supervision. Failure to remain drug-free will not only result in increased urine collection, but may also result in the person being placed in progressively more restrictive treatment situations.

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[1] Testimony of Judge Edward R. Becker at Hearings on H.R. 3007 before the Subcommittee on Crime of the House Committee on the Judiciary, 101st Congress, 1st Session, July 27, 1989. *See also* H. Rpt. 98-87 (to accompany H.R. 2173) p. 2.

Offenders in Phase I, the most restrictive treatment regimen, are tested at least six times per month with at least two of those being "surprise" or unscheduled tests with less than twenty-four hours notice. After approximately six months of negative test results the offender can be placed in Phase II which requires four tests per month, again with two being on an unscheduled basis. After approximately three months in Phase II an offender may move on to Phase III, the least restrictive regimen, during which two tests are done each month, both of which are unscheduled.

The Administrative Office of the United States Courts contracts with a laboratory to provide national urinalysis services for federal probation and pretrial services offices. In 1988 alone over 360,000 specimens were submitted for testing. The contract laboratory routinely tests for seven major categories of drugs (opiates, cocaine, amphetamines, barbiturates, phencyclidine, methadone, and benzodiazepines) as part of a routine screen of all specimens. An additional group of twenty-one drugs may be tested on request of the officer. All initial positive tests are confirmed by a separate and distinct methodology from the first.

Drug treatment includes but is not limited to medical, educational, social, psychological and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependency on addicting drugs or by controlling his dependence and susceptibility to addiction. (18 U.S.C. 4251) Authorized services for substance abusing federal offenders include, but are not necessarily limited to, urinalysis; counseling; vocational testing, training, and placement; physical examinations; psychological and psychiatric evaluations and treatment; outpatient and inpatient detoxification; short and long term residential treatment; temporary housing; emergency transportation and financial assistance; and travel by contract staff to visit clients.

Treatment services are provided by probation staff, through available community programs that provide services at no additional cost to the government and by over six hundred treatment programs under contract to the Administrative Office of the United States Courts. The contracts are awarded through a competitive process that involves hundreds of treatment facilities throughout the United States.

A recent two-year study of nearly 4,000 terminations from the Substance Abuse Treatment Program showed that approximately 50 percent were terminated from treatment without any revocation or reported criminal activity, 39 percent were terminate for continued drug use or failure to attend treatment sessions or for other technical reasons, and only 8 percent were terminated for new criminal activity.

The Administrative Office reports that funding demands in the Substance Abuse Treatment Program have been escalating to the point that the program has been unable to meet all of the needs of the probation field offices in providing substance abuse services to convicted offenders under community supervision. The increased demands reflect a constantly increasing population of offenders abusing controlled substances, the result of intensified prosecution of drug related cases by the Department of Justice as well as im-

proved identification of substance abusers by probation and pretrial services officers. Testing costs, which represent a substantial portion of the program's expenditures, have risen. Expenditures for urinalysis in 1988 exceeded $2 million at an approximate rate of $6 per specimen. Improved test methodology, including a more sophisticated confirmation process and a more costly screening method, increased urinalysis costs in fiscal year 1989 to nearly $3 million, with costs for 1990 expected to be more than $3.5 million or over $9 per specimen. Drug treatment costs, which represent the majority of expenditures in the program, have also risen. Outpatient services have been largely unsuccessful with cocaine abusers, necessitating the use of residential treatment, a far more expensive modality. Moreover, program levels have in the recent past been dictated by budget restraints rather than by the actual testing and treatment needs of the offenders. The federal probation system is also beginning to receive offenders released from prison under supervised release, and most court orders in drug related offenses include requirements for urine surveillance and treatment. Finally, the recent addition of alcohol treatment to the program has increased its cost.

Reauthorization of the Program

The program is reauthorized for three additional fiscal years at authorization ceilings of $30,000,000 for fiscal year 1990, $40,000,000 for fiscal year 1991, and $45,000,000 for fiscal year 1992.

Subcommittee Action

The Subcommittee on Crime has maintained close oversight over the Federal Substance Abuse Program. As part of that oversight a hearing was held on July 27, 1989, at which testimony was received from the Honorable Judge Edward R. Becker. Judge Becker, a member of the United States Court of Appeals for the Third Circuit since 1981, appeared on behalf of the Judicial Conference of the United States. He presently serves as chairman of the Conference's Criminal Law and Probation Committee and was a member of the Committee on the Administration of the Probation System from 1979 until 1988 when that committee was merged with the Criminal Law Committee. Judge Becker also served as a U.S. District Court Judge for the Eastern District of Pennsylvania from 1970 until 1981.

The Subcommittee also heard testimony from the Honorable Vincent L. Broderick, a member of the United States District Court for the Southern District of New York; the Honorable Lawrence Leavitt, United States Magistrate for the Southern District of Nevada; and Thomas Primosch, Chief of the U.S. Pretrial Services Office for the Middle District of Florida.

On that same date, the Subcommittee on Crime, a quorum being present, ordered reported as a clean bill, H.R. 3007, the "Drug and Alcohol Dependent Offenders Treatment Act of 1989."

Sectional Analysis

Section 1 is the short title, the "Drug and Alcohol Dependent Offenders Treatment Act of 1989."

Section 2 would reauthorize the program for three additional fiscal years setting authorization ceilings of $30,000,000 for fiscal year 1990, $40,000,000 for fiscal year 1991, and $45,000,000 for fiscal year 1992.

Committee Action

On October 3, 1989, the Committee, by voice vote, a quorum being present, ordered the bill, H.R. 3007, reported favorably without amendment.

Committee Oversight Findings

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

Statement on Budget Authority and Related Items

In compliance with clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, the Committee reports that no statement under section 308(a)(1) of the Congressional Budget Act of 1974 is required.

Congressional Budget Office Cost Estimate

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3007, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 3, 1989.

Hon. Jack Brooks,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3007, the Drug and Alcohol Dependent Offenders Treatment Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer, *Director.*

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 3007.
2. Bill title: Drug and Alcohol Dependent Offenders Treatment Act of 1989.

3. Bill status: As ordered reported by the House Committee on the Judiciary, October 3, 1989.

4. Bill purpose: H.R. 3007 would reauthorize the Drug Dependent Offenders Program for fiscal years 1990 through 1992.

5. Estimated Cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Authorization level	30	40	45		
Estimated outlays	28	39	44	3	1

The costs of this bill would fall within budget function 750.

Basis of estimate: CBO assumes that the funds authorized by H.R. 3007 for fiscal years 1990 through 1992 will be appropriated prior to the beginning of each fiscal year. Estimated outlays are based on historical spending rates.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Mitchell Rosenfeld.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Oversight Findings of Committee on Government Operations

In accordance with clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee states that, with respect to the subject matter of the bill, the Committee on Government Operations did not submit to the Committee findings or recommendations based on investigations under clause 4(c)(2) of rule X of the Rules of the House of Representatives.

Inflationary Impact Statement

In compliance with clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee states that the bill will have no inflationary impact on prices and costs in the operation of the national economy.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Section 4 of the Contract Services for Drug Dependent Federal Offenders Act of 1978

Sec. 4. (a) To carry out the purposes of this Act *and the 7th paragraph of section 3672 of title 18, United States Code;* there are authorized to be appropriated sums not to exceed $3,500,000 for the fiscal year ending September 30, 1980; $3,645,000 for the fiscal year

ending September 30, 1981; $3,750,000 for the fiscal year ending September 30, 1982; $5,000,000 for the fiscal year ending September 30, 1984; $5,500,000 for the fiscal year ending September 30, 1985; $6,500,000 for the fiscal year ending September 30, 1986; $12,000,000 for the fiscal year ending September 30, 1987; $24,000,000 for fiscal year ending September 30, 1988; [and] $26,000,000 for the fiscal year ending September 30, 1989[.] *; $30,000,000 for the fiscal year ending September 30, 1990; $40,000,000 for the fiscal year ending September 30, 1991; and $45,000,000 for the fiscal year ending September 30, 1992.*

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Committee Cost Estimate

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee concurs in the estimate provided by the Congressional Budget Office and adopts that estimate as the cost estimate of the Committee.

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